IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

YURI GAGARIN LLC 17851 Englewood Drive Suite C Middleburg Heights, OH 44115, Plaintiff v. MIN LIU No. 173 Dunhe Road, Haizhu District Guangzhou City, Guangdong Province 518000 China, Defendant.	CASE NO. 1:17-cv-00745 JUDGE JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Yuri Gagarin LLC ("Yuri"), alleges as follows for its Complaint against Defendant, Min Liu ("Liu"):

1. Yuri is a limited liability company organized and existing under the laws of the state of Ohio, having its principal place of business at 17851 Englewood Drive Suite C, Middleburg Heights, OH 44130.

2. Upon information and belief, Liu is an individual residing at No. 173 Dunhe Road, Haizhu District, Guangzhou City, Guangdong Province 518000, China.

3. Liu claims to be the owner of U.S. Patent No. D774,512 ("the '512 patent"), entitled "PEN." A true and correct copy of the '512 patent is attached as Exhibit 1.

JURISDICTION AND VENUE

4. This action is based on the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, as is more fully set forth below.

5. An actual, substantial, and continuing justiciable controversy with respect to the infringement of the '512 patent exists between Yuri and Liu that requires a declaration of rights by this Court.

6. An actual, substantial, and continuing justiciable controversy with respect to Yuri's tortious interference with Yuri's business relationship with Amazon.com, Inc. exists between Yuri and Liu that requires injunctive relief and an award of damages.

7. This Court has original and exclusive jurisdiction over Yuri's declaratory judgment claim pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202.

8. This court has supplemental jurisdiction over Yuri's tortious interference claim pursuant to 28 U.S.C. § 1367.

9. This Court has personal jurisdiction over Liu because Liu has committed tortious acts which have caused harm to Yuri in the Northern District of Ohio.

10. Venue in this district is proper pursuant to 28 U.S.C. §§ 1391(b)(3) at least because Liu does not reside in the United States and neither a substantial part of the events or omissions giving rise to the claim occurred in nor a substantial part of property that is the subject of the action is situated in a particular district, and Liu is subject to personal jurisdiction.

FACTUAL BACKGROUND

11. Yuri is a hobby and toy shop and the owner of USGifts store on Amazon.com, which offers and sells the Scribbler 3D Pen V3, among other products. Yuri's Amazon seller page is located at the following URL:

https://www.amazon.com/sp?_encoding=UTF8&asin=&isAmazonFulfilled=1&isCBA=&marketplaceID=ATVPDKIKX0DER&orderID=&seller=A3NDXA701WFHKQ&tab=&vasStoreID=

12. On September 28, 2014, Nanjing EASYREAL Electronic Technology Co., Ltd., Yuri's Chinese manufacturer, communicated with PEARL-Group offering for sale the 3D pens which are the subject matter of this dispute.

13. On October 10, 2014, Nanjing EASYREAL Electronic Technology Co., Ltd. sold 500 subject 3D pens to PEARL-Group.

14. In Winter 2014, an advertisement for the sale of the subject 3D pens was published in PEARL magazine.

15. In April 2015, Yuri listed the Scribbler 3D Pen V3 on Amazon.com, including images of the product.

16. On April 21, 2015, Yuri sold its Scribbler 3D Pen V3.

17. On November 18, 2015, a Chinese patent application for the 3D pen was published by the People's Republic of China with Publication No. CN 303449655 S (*see* Exhibit 2).

18. Nanjing EASYREAL Electronic Technology Co., Ltd has declared that they have the right, title, or interest in the Chinese patent application having Publication No. CN 303449655, and have further declared that the subject matter of this Chinese patent application was not obtained directly or indirectly from Liu.

19. On December 6, 2015, Liu filed an application for the '512 patent with the United States Patent and Trademark Office.

20. Liu submitted a report of intellectual property infringement to Amazon, alleging that Yuri's Scribbler 3D Pen V3 infringes the '512 patent. At that time, Liu knew the '512 patent is invalid and unenforceable.

21. On March 10, 2017, Amazon.com notified Yuri that Yuri was no longer permitted to list the Scribbler 3D Pen V3 on Amazon.com because Liu had reported design infringement.

22. On March 20, 2017 Liu sent Yuri's counsel an email alleging that Yuri is maliciously infringing Liu's '512 patent by selling Yuri's Scribbler 3D Pen V3 products, stating: "Do not you think,this [*sic*] is malicious infringe on my IP right?? Will be not fined at least 3times of the sales amount if go to court according to US laws?"

23. Liu's accusations of infringement place a cloud over Yuri's Scribbler 3D Pen V3 products, causing Yuri harm and negatively impacting Yuri's ability to conduct business.

24. An actual, substantial, and continuing justiciable controversy exists between Yuri and Liu with respect to the infringement, validity, and enforceability of the '512 patent, and that controversy requires a declaration of rights by this Court.

25. An actual, substantial, and continuing justiciable controversy exists between Yuri and Liu with respect to Liu's tortious interference of Yuri's business relationship with Amazon.com, and that controversy requires a declaration of rights by this Court.

COUNT I
DECLARATORY JUDGMENT OF INVALIDITY OF THE '512 PATENT

26. Yuri incorporates the allegations set forth in Paragraphs 1-25 above as if each were separately set forth at length herein.

27. As a result of Liu's accusations of patent infringement by Yuri, an actual controversy exists as to the invalidity of the '512 patent.

28. The '512 patent is invalid for failure to meet one or more of the requirements of patentability set forth in 35 U.S.C. §§ 101 et seq., including, but not limited to, §§ 102, 103 or 116.

29. The '512 patent is invalid under 35 U.S.C. § 102 because the subject matter of the '512 patent was on sale more than one year before the effective filing date of the '512 patent.

30. The '512 is additionally invalid under at least 35 U.S.C. § 102 because the design of the 3D pen was published before the effective filing date of the '512 patent.

31. On information and belief, the '512 is additionally invalid under at least 35 U.S.C. § 116 because Liu did not invent the subject matter of the '512 patent.

32. Yuri seeks and requires resolution of the issues asserted in this claim, as the accusations of infringement made by Liu have placed a cloud over Yuri's ability to conduct business so long as these issues regarding the '512 patent remain unresolved.

33. Yuri is entitled to a declaratory judgment that the '512 patent is invalid.

COUNT II
INEQUITABLE CONDUCT IN APPLYING FOR THE '512 PATENT

34. Yuri incorporates the allegations set forth in Paragraphs 1-33 above as if each were separately set forth at length herein.

35. As a result of Liu's accusations of design infringement by Yuri, an actual controversy exists as to the enforceability of the '512 patent.

36. The '512 patent is unenforceable for Liu's failure disclose known and material prior publications of the subject 3D pens in Liu's application for the '512 patent.

37. On information and belief, Liu knew of the sales and/or publication of the subject 3D pen design.

38. Liu failed to disclose the relevant disclosures in applying for the '512 patent.

39. Had the United States Patent and Trademark Office ("PTO") been aware of the previous sales and publications, the PTO would not have granted the '512 patent.

40. On information and belief, Liu committed inequitable conduct by misrepresenting to the PTO that he was the inventor of the subject matter of the '512 patent when, in fact, he filed the application for the '512 patent only after first learning of the subject matter of the '512 patent via product offerings in China by others.

41. Yuri seeks and requires resolution of the issues asserted in this claim, as the accusations of infringement made by Liu have placed a cloud over Yuri's ability to conduct business so long as these issues regarding the '512 patent remain unresolved.

42. Yuri is entitled to a declaratory judgment that the '512 patent is unenforceable

COUNT III
TORTIOUS INTERFERENCE WITH A BUSINESS RELATIONSHIP

43. Yuri incorporates the allegations set forth in Paragraphs 1-42 above as if each were separately set forth at length herein.

44. At the time Liu interfered with Yuri's relationship with Amazon.com, Inc., Liu knew that the '512 patent is invalid and unenforceable.

45. As a result of Liu's prevention of Yuri's sales on Amazon.com, an actual controversy exists as to Liu's tortious interference of Yuri's business relationship with Amazon.com, Inc.

46. On information and belief, Liu fraudulently obtained the '512 patent by claiming that he invented the design and knowing that he did not.

47. Yuri and Amazon.com, Inc. had a business relationship to sell the Scribbler 3D Pen V3.

48. Liu knew of Yuri's relationship with Amazon.com, Inc. when Liu reported Yuri's design patent infringement.

49. In response to Liu's report, Amazon.com, Inc. terminated Yuri's sales relationship and will not allow Yuri to sell the Scribbler 3D Pen V3 on Amazon.com.

50. Yuri has suffered lost sales and other economic harm from its inability to sell the Scribbler 3D Pen V3 on Amazon.com.

51. Yuri is entitled to damages for Liu's tortious interference with Yuri's business relationship with Amazon.com, Inc.

PRAYER FOR RELIEF

WHEREFORE, Yuri respectfully requests that this Court:

A. Enter judgment that the '512 patent is invalid;

B. Enter judgment that the '512 patent is unenforceable;

C. Award Yuri damages adequate to compensate Yuri for Liu's tortious interference with Yuri's business relationship with Amazon.com;

D. Order Liu to pay costs, fees, including attorneys' fees, pre-judgment interest and post-judgment interest to Yuri; and

E. Grant such other and further relief as the Court deems just and equitable.

JURY DEMAND

Plaintiff requests a trial by jury of any issue triable as of right pursuant to Rule 38(b) of the Federal Rules of Civil Procedure.

Dated: April 10, 2017

/s/ *Mark C. Johnson*

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